

DECISION AND FINDING OF NO SIGNIFICANT IMPACT

AMENDMENT TO THE EA: REDUCING BIRD DAMAGE AT MUNICIPALITIES, INDUSTRIAL SITES, AGRICULTURAL SITES, AND PRIVATE LAND THROUGH AN INTEGRATED BIRD DAMAGE MANAGEMENT PROGRAM IN THE STATE OF INDIANA

I. INTRODUCTION

In 2002, the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) program completed an environmental assessment (EA) on alternatives for the management of conflicts and damage caused by birds in Indiana (USDA 2002a)¹. The EA documented the need for bird damage management (BDM) in Indiana and assessed potential impacts of various alternatives to respond to bird damage and associated risks to human health and safety. The EA's Decision and Finding of No Significant Impact (FONSI) allowed for the implementation of an Integrated Bird Damage Management (BDM) program to respond to requests to protect property, agriculture, natural resources, and human health and safety from bird damage at municipalities, industrial sites, agricultural sites, and private land within Indiana. WS monitors the impacts of its BDM actions annually to determine if the impacts are within the parameters analyzed in the EA. Review of Indiana WS' BDM activities indicated that there were more requests for damage management involving pigeons (rock doves, *Columba livia*) and mourning doves (*Zenaida macroura*) than anticipated in the EA. Additionally, a new BDM product, the chemosterilant nicarbazin (OvoControl-G), was approved by the United States Environmental Protection Agency on November 23, 2005, for use in the management of local populations of resident Canada geese (*Branta canadensis*). WS prepared an amendment to the EA to analyze the impact of these changes on its BDM activities. The amendment was made available for public comment July 2006. This document provides notice of WS' choice of a management alternative and determination regarding the magnitude of the environmental impacts associated with that alternative that were made using information in the EA and amendment.

The EA and amendment were prepared in consultation with the Indiana Department of Natural Resources (IDNR) to determine impacts on state wildlife populations and to ensure that the proposed actions are in compliance with relevant laws, regulations, policies, orders and procedures. All WS BDM activities will be conducted consistent with the Endangered Species Act of 1973 as amended including consultation with the United States Department of Interior, Fish and Wildlife Service (USFWS), and all other applicable Federal, State and local laws, regulations and policies.

II. BACKGROUND

The determination of a need for WS assistance with BDM in Indiana is based on requests for assistance with bird damage to municipal sites, industrial sites, agricultural sites, and private land in Indiana, and bird-related risks to public health and safety. Some of the types of damage that resource

¹ The EA and supporting documentation are available for review at the USDA-APHIS-WS State Office, Purdue University-SMTH Hall, 901 W. State St., West Lafayette, IN 47907-2089.

owners/managers seek to alleviate include: European starling damage to corn crops, dairies, food processing plants; damage to utilities; contamination of pharmaceutical production facilities, public historical and municipal areas; protection workers from pest bird-related health and safety threats; protection of Threatened and Endangered (T&E) species; and protection of public health and safety at airports. WS may also receive requests for assistance with surveillance and management of wildlife for diseases transmissible to humans or livestock. Details on the conflicts associated with bird damage in Indiana are provided in the EA and amendment. State agencies in Indiana provide advice and issue permits to control damage but direct control services have been privatized. Private companies do provide some management services, but they may be too expensive, not geographically available, or not knowledgeable in a particular damage situation. In addition, some resource owners/managers feel more comfortable with Wildlife Services as the Federal authority in BDM.

The Migratory Bird Treaty Act (MBTA), as amended, provides the USFWS regulatory authority to protect families of birds that contain species that migrate outside the United States. The law prohibits any "take" of these species, except as permitted by the USFWS. Property owners/managers may obtain permits from the USFWS that allow the take of birds causing damage. WS provides technical assistance for most permit applicants prior to submission of the WS Form 37 which is used by the USFWS when issuing migratory bird permits for damage management. Indiana State Regulation 3CSR10-4.130, Owner May Protect Property, authorizes landowners or agents of the landowner to protect property, subject to federal regulations from migratory birds. Any wildlife except deer, turkey, and any endangered species which, beyond reasonable doubt, is damaging property may be capture or killed at any time without a permit. Private individuals may obtain permits and/or assistance from the IDNR to address problems with turkeys. Consequently, WS involvement is not mandatory for property owners/managers to take action to resolve bird damage problems. The EA and amendment only evaluated alternatives for WS involvement in BDM and cannot change Indiana State Statutes and IDNR/USFWS policy permitting private landowners access to lethal and nonlethal alternatives for managing bird damage. Therefore, a major factor in determining how to analyze potential environmental impacts of WS' involvement in BDM is that such management will likely be conducted by state, local government, or private entities that are not subject to compliance with NEPA, even if WS is not involved. This means that the Federal WS program has limited ability to affect the environmental outcome (*status quo*) of BDM in the state, except that the WS program is likely to have lower risks to nontarget species and less impact on wildlife populations than some actions that may be taken by resource owners/managers. In the absence of a WS program, some individuals experiencing damage may take illegal or unsafe action against the problem species either unintentionally due to lack of training, or deliberately out of frustration of continued damage. In these instances, adverse impacts on the environment may be greater than with a professional WDM program. Despite the limitation to WS' influence on the environmental *status quo* and associated limit to federal decision-making, this EA process is valuable for informing the public and decision-makers of the substantive environmental issues and alternatives for management of mammal damage.

III. ISSUES ANALYZED IN THE EA

The following issues were identified as important to the scope of the analysis (40 CFR 1508.25) and each of the proposed alternatives was evaluated relative to its impacts on these issues.

- Effects on Target Bird Species Populations
- Effects on Non-target Species Populations, including T&E Species
- Economic Losses to Property as a Result of Bird Damage
- Effects on Human Health and Safety
- Effects on Aesthetics
- Humaneness and Animal Welfare Concerns of Lethal Methods Used by WS

IV. ALTERNATIVES ANALYZED IN DETAIL

Chapter 3 of the EA analyzes four potential alternatives that were developed to address the issues identified above. One additional alternative was considered but not analyzed in detail. A detailed discussion of the anticipated effects of the alternatives on the issues is provided in Chapter 4 of the EA and in the amendment. The following summary provides a brief description of each alternative and its anticipated impacts.

1. Alternative 1 – Implement a Federal BDM Program /Integrated Bird Damage Management (Proposed Action/No Action).

The proposed action is to continue the current WS program at municipal sites, industrial sites, agricultural sites, and private land in Indiana. WS programs will respond to requests for BDM to protect property, and human health and safety at such properties. An Integrated Bird Damage Management (IBDM) approach would be implemented which would allow use of any legal technique or method, used singly or in combination, to meet request or needs for resolving conflicts with birds affecting the use of such properties (Appendix B of the EA). Property owners/managers requesting assistance would be provided with information regarding the use of effective non-lethal and lethal techniques. Lethal methods used by WS would include shooting, trapping, toxicants, or euthanasia following live captures by immobilizing drugs or trapping. The annual maximum lethal take for mourning doves would increase from 20 birds per year in the original EA to 100 birds per year and the annual maximum lethal take of feral pigeons (rock doves) would increase from 250 birds per year to 1,000 birds per year. All other lethal take would remain as described in the original EA. Non-lethal methods used by WS may include habitat alteration, chemical immobilization, repellents, barriers and deterrents, netting, capture and relocation, harassment or scaring devices, and use of the goose reproductive inhibitor nicarbazin. In many situations, the implementation of non-lethal methods such as habitat alteration, structural modifications and exclusion-type barriers would be the responsibility of the property to implement. BDM by WS would be allowed on such properties and adjacent properties, when requested, where a need has been documented and upon completion of an Agreement for Control. All management actions would comply with appropriate federal, state, and local laws.

Alternative 2 - Non-lethal BDM Only, By WS.

This alternative would require WS to use and recommend non-lethal methods only to resolve bird damage problems. Requests for information regarding lethal management approaches would be referred to IDNR, FWS, local animal control agencies, or private businesses or organizations. Individuals might choose to implement WS non-lethal recommendations, implement lethal methods or other methods not recommended by WS, contract for WS direct control services, use contractual services of private businesses, or take no action. Currently, DRC-1339 and Alpha-Chloralose are only available for use by WS employees. DEA regulated immobilizing/euthanasia drugs are available only to licensed veterinarians or other authorized users such WS personnel. Therefore, use of these chemicals by private individuals would be illegal. Under this alternative, Alpha-Chloralose or other approved capture drugs would be used by WS personnel to capture and relocate birds. WS would also be able to use the new Canada goose reproductive inhibitor, nicarbazin. Appendix B of the EA describes a number of non-lethal methods available for use by WS under this alternative.

Alternative 3 - Lethal BDM Only, By WS.

Under this alternative, WS would provide only lethal direct control services and technical assistance. The annual maximum lethal take for mourning doves would increase from 20 birds per year in the original EA to 100 birds per year and the annual maximum lethal take of feral pigeons (rock doves) would increase from 250 birds per year to 1,000 birds per year. All other lethal take would remain as described in the original EA. Technical assistance would include making recommendations to the FWS and IDNR

regarding the issuance of permits to resource owners to allow them to take birds by lethal methods. Requests for information regarding non-lethal management approaches would be referred to IDNR, FWS, local animal control agencies, or private businesses or organizations. WS would not be able to use the Canada goose reproductive inhibitor, nicarbazin but the product would be available to entities other than WS. Individuals might choose to implement WS lethal recommendations, implement non-lethal methods or other methods not recommended by WS, contract for WS direct control services, use contractual services of private businesses, or take no action. In some cases, control methods employed by others could be contrary to the intended use or in excess of what is necessary. Not all of the methods listed in Appendix B of the EA are potentially available to WS would be legally available to all other agencies or individuals.

Alternative 4 - No Federal WS BDM.

This alternative would eliminate Federal WS involvement in BDM at municipal sites, industrial sites, agricultural sites, and private land in Indiana. WS would not provide direct operational or technical assistance and requesters of WS services would have to conduct their own BDM without WS input. Requests for information would be referred to IDNR, FWS, local animal control agencies, or private businesses or organizations. Individuals might choose to conduct BDM themselves, use contractual services of private businesses, or take no action. DRC-1339 and Alpha-Chloralose are only available for use by WS employees. Therefore, use of these chemicals as well as DEA controlled substances by private individuals would be illegal. Avitrol and nicarbazin could be used by State certified restricted-use pesticide applicators.

V. MONITORING

The Indiana WS program will annually monitor the impacts of its actions relative to each of the issues analyzed in detail in the EA. This evaluation will include reporting the WS take of all target and nontarget species to help ensure there are no adverse impacts on the viability of State native wildlife populations or non-target species including State and Federally listed threatened/endangered species. IDNR expertise will be used to assist in determining impacts on state wildlife populations.

VI. PUBLIC INVOLVEMENT

The EA and amendment were available for public review and comment during a 30-day period (07/11/06-08/15/06), which complies with public involvement guidelines/policies contained in NEPA, Council On Environmental Quality (CEQ) regulations, and APHIS WS Implementing Regulations, as well as all pertinent agency laws, regulations, and policies. A Legal Notice of Availability was placed in the statewide edition of the Indianapolis Star, a daily newspaper with geographic coverage of all of the proposed project area, for three days (07/11/06-07/13/06). WS also sent notices of availability and/or copies of the EA and amendment to individuals and organizations that WS knew might have an interest in the EA. WS received no requests for copies of the Pre-Decisional EA. WS did not receive any comments on the EA during the comment period, nor were any comments received during the interval between the end of the EA and WS issuance of a final Decision on the alternative to be selected and its environmental impacts.

VII. AGENCY AUTHORITIES

Wildlife Services Legislative Authority. WS is the Federal program authorized by law to help reduce damage caused by wildlife. The primary statutory authorities for the APHIS-WS program are the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-331, 7 U.S.C. 426c). The mission of the USDA/APHIS/WS program is to provide federal

leadership in managing conflicts with wildlife. Wildlife Services' mission, developed through its strategic planning process (USDA 1999), is: 1) *"to provide leadership in wildlife damage management in the protection of America's agricultural, industrial and natural resources, and 2) to safeguard public health and safety."* WS recognizes that wildlife is an important public resource greatly valued by the American people. By its very nature, however, wildlife is a highly dynamic and mobile resource that can cause damage to agriculture and property, pose risks to human health and safety, and affect industrial and natural resources. WS conducts programs of research, technical assistance and applied management to resolve problems that occur when human activity and wildlife conflict.

Additionally, Memoranda of Understanding among WS and other governmental agencies also define WS responsibilities in wildlife damage management. For example, a Memorandum of Understanding between the FAA and WS recognizes WS role and expertise in providing wildlife hazard management assistance to the aviation community. It states, that the "FAA or the certificated airport may request technical and operational assistance from WS to reduce wildlife hazards."

United States Department of the Interior, Fish and Wildlife Service (USFWS). The primary responsibility of the United States Department of the Interior, Fish and Wildlife Service (USFWS) is fish, wildlife, and plant conservation. While some of the USFWS's responsibilities are shared with other Federal, State, Tribal, and local agencies, the USFWS has special authorities in managing the National Wildlife Refuge System; conserving migratory birds, endangered species, certain marine mammals, and nationally significant fisheries; and enforcing Federal wildlife laws. The USFWS is charged with implementation and enforcement of the Endangered Species Act of 1973, as amended and with developing recovery plans for listed species.

Indiana Department of Natural Resources Legislative Authority. The Indiana Department of Natural Resources (IDNR), under the direction of the Conservation Commission, is specifically charged by the General Assembly with the management of the state's wildlife resources. The primary statutory authorities include the protection, reproduction, care, management, survival, and regulation of wild animal populations regardless of whether the wild animals are present on public or private property in Indiana (IC 14-22-2-3).

Indiana State Board of Animal Health. The Indiana State Board of Animal Health (BOAH) is authorized under I.C. 15-2.1 to promote and encourage the prevention, suppression, control and eradication of infectious, contagious and communicable diseases affecting the health of animals within Indiana and the trade in animals and animal products in and from Indiana.

VIII. DECISION and RATIONALE

I have carefully reviewed the EA and amendment. I believe the issues identified in the EA are best addressed by selecting Alternative 1, *Implement a Federal BDM Program /Integrated Bird Damage Management (Proposed Action/No Action)*, and applying the associated Standard Operating Procedures and monitoring measures discussed in Chapter 3 of the EA. Alternative 1 provides the best range of damage management methods considered practical and effective, best addresses the issues identified in the EA and provides safeguards for public safety, and accomplishes WS' Congressionally directed role in protecting the Nation's agricultural and other resources including meeting its obligations to the IDNR, and cooperating counties and residents of Indiana. WS policies and social considerations, including humane issues, will be considered while conducting BDM. While Alternative 1 does not require non-lethal methods to be used, WS will continue to provide information and encourage the use of practical and effective non-lethal methods (WS Directive 2.101). I have also adopted the EA as final because WS did not receive any comments that changed the analysis.

FINDING OF NO SIGNIFICANT IMPACT

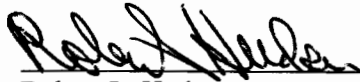
The EA indicates that there will not be a significant impact, individually or cumulatively, on the quality of the human environment because of this proposed action, and that these actions do not constitute a major Federal action. I agree with this conclusion and therefore determine that an EIS will not be necessary or prepared. This determination is based on the following factors:

1. BDM, as conducted by WS in the State of Indiana, is not regional or national in scope. Although BDM projects may occur anywhere in the State, individual activities will occur at localized properties.
2. Based on the analysis documented in the EA, the impacts of the Proposed Action will have no negative effects on public health or safety. The Proposed Action is expected to result in a direct beneficial impact on public health and safety by reducing the potential risk health and safety risks posed by birds at municipal sites, industrial sites, agricultural sites, and private land in Indiana. Risks to the public from WS methods were determined to be low in a formal risk assessment (USDA 1997, Appendix P).
3. The Proposed Action will not have a significant impact on unique characteristics such as park lands, prime farm lands, wetlands, wild and scenic areas, or ecologically critical areas. Built-in mitigation measures that are part of WS's standard operating procedures and adherence to laws and regulations that govern impacts on elements of the human environment will assure that significant adverse impacts are avoided.
4. The effects on the quality of the human environment are not highly controversial. Although there may be opposition to killing birds, this action is not controversial in relation to size, nature, or effects. Based on consultations with the State wildlife management authorities, the Proposed Action is not likely to cause a controversial disagreement among the appropriate resource professionals.
5. Mitigation measures adopted and/or described as "part of the Proposed Action" minimize risks to the public, prevent adverse effects on the human environment, and reduce uncertainty and risks. Effects of methods and activities, as proposed, are known and do not involve uncertain or unique risks.
6. The Proposed Action does not establish a precedent for future actions. This action would not set a precedent for future BDM actions that may be implemented or planned within the State. Effects of the Proposed Action are minor and short-term in nature and similar actions have occurred previously in the State without significant effects.
7. No significant cumulative effects were identified through this assessment. The EA discussed cumulative effects of WS on target and non-target species populations and concluded that such impacts were not significant for this or other anticipated actions to be implemented or planned within the State. Adverse effects on wildlife or established wildlife habitats would be minimal.
8. This action will not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places and will not cause loss or destruction of significant scientific, cultural, or historic resources. Bird damage management would not disturb

soils or any structures and therefore would not be considered a Federal undertaking as defined by the National Historic Preservation Act.

9. WS determined that the Proposed Action would not result in any adverse effects on Federally listed threatened or endangered species.
10. The Proposed Action is consistent with Local, State, and Federal laws that provide for and/or restrict WS bird damage management. Therefore, WS concludes that this project is in compliance with Federal, State and Local laws for environmental protection.

For additional information regarding this decision, please contact Judy Loven, State Director, APHIS, WS, Purdue University-SMTH Hall, 901 W. State St., West Lafayette, IN 47907-2089, or by phone @ 765-494-6229.



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11/9/06
Date

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